

IC 20-12-63

Chapter 63. Indiana Educational Facilities Authority

IC 20-12-63-1

Declaration of purpose

Sec. 1. It is declared:

- (1) that for the benefit of the people of the state, the conduct and increase of their commerce, the protection and enhancement of their welfare, the development of continued prosperity and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities and skills;
- (2) that to achieve the ends in subdivision (1), it is of the utmost importance that private institutions of higher education within the state be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills; and
- (3) that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable private institutions of higher education in the state to refund or refinance outstanding indebtedness incurred by private institutions of higher education in the state for the renovation, construction, acquisition, or equipping of educational facilities, to establish liability or other loss insurance reserves or to contribute those insurance reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses, and to provide the needed additional educational facilities for the public benefit and good, and in execution of the public policy set forth in this section.

As added by Acts 1979, P.L.219, SEC.1. Amended by P.L.233-1987, SEC.2; P.L.76-1995, SEC.2.

IC 20-12-63-2 Repealed

(Repealed by P.L.4-1988, SEC.14.)

IC 20-12-63-3

Definitions

Sec. 3. For the purposes of this chapter, unless the context clearly requires otherwise the following words are defined as follows:

- (1) "Authority" means the Indiana educational facilities authority.
- (2) "Project" means:
 - (A) the acquisition, construction, enlarging, remodeling, renovation, improvement, furnishing, or equipping of an educational facility by the authority for a private institution of higher education; or
 - (B) the funding of any liability, other loss, or insurance

reserves or the funding and contribution of such insurance reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses.

(3) "Cost" means all costs necessary or incident to the acquisition, construction, or funding of a project, including the costs of refunding or refinancing outstanding indebtedness incurred for the financing of such project, reserves for principal and interest, engineering, legal, architectural and all other necessary and incidental expenses, together with interest on bonds issued to finance the project to a date six (6) months subsequent to the estimated date of completion.

(4) "Bonds" means revenue bonds, notes, bond anticipation notes, or other obligations of the authority issued under this chapter, including refunding bonds, notes, bond anticipation notes, or other obligations.

(5) "Bond resolution" means the resolution or resolutions and the trust agreement, if any, authorizing or providing for the terms and conditions applicable to bonds issued pursuant to this chapter.

(6) "Educational facility" means any property located within the state which:

(A) is suitable for:

- (i) the instruction, feeding, recreation, or housing of students;
- (ii) the conduct of research or other work of a private institution of higher education; or
- (iii) use, by a private institution of higher education, in connection with any educational, research, or related or incidental activity conducted by the private institution of higher education.

(B) is suitable for use as or in connection with the following: an academic facility, administrative facility, agricultural facility, assembly hall, athletic facility, auditorium, boating facility, campus, communication facility, computer facility, continuing education facility, classroom, dining hall, dormitory, exhibition hall, firefighting facility, fire prevention facility, food service and preparation facility, gymnasium, greenhouse, health care facility, hospital, housing, instructional facility, laboratory, library, maintenance facility, medical facility, museum, offices, parking area, physical education facility, recreational facility, research facility, stadium, storage facility, student union, study facility, theater, or utility;

(C) is not used or to be used for sectarian instruction or study or as a place for devotional activities or workshop; and

(D) is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(7) "Eligible member" means a corporation defined under

IC 20-12-6-1 or any private institution of higher education.

(8) "Liability or loss insurance reserves" means a fund or funds set aside as a reserve to cover risk retained by an eligible member in connection with liability claims or other losses.

(9) "Liability" means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons or entities, damage to the property or business of other persons or entities, or other damage or loss to such other persons or entities resulting from or arising out of any activity of an eligible member.

(10) "Private institution of higher education" means a nonprofit educational institution with a principal office in Indiana that:

(A) is not owned or controlled by the state of Indiana or any political subdivision, agency, instrumentality, district, or municipality of the state of Indiana;

(B) is authorized by law to provide a program of education beyond the high school level;

(C) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(D) provides an educational program:

(i) for which the institution awards an associate degree;

(ii) for which the institution awards a bachelors degree;

(iii) admission into which is conditioned upon the prior attainment of a bachelors degree or equivalent, for which the institution awards either a post graduate degree or provides not less than a two (2) year program which is acceptable for full credit toward a post graduate degree; or
(iv) of two (2) years duration in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(E) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted on transfer by not less than three (3) institutions which are so accredited for credit on the same basis as if transferred from an institution so accredited; and

(F) does not discriminate in the admission of students on the basis of race, color, or creed.

(11) "Property" means any real, personal, or mixed property, or any interest therein, including, without limitation, any real estate, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, rights-of-way and structures, or any interest therein.

(12) "Revenues" means with respect to any project the rents,

fees, charges, and other income or profit derived therefrom.

(13) "Risk retention group" means a trust, pool, corporation, limited liability company, partnership, or joint venture funded by and owned and operated for the benefit of more than one (1) eligible member.

As added by Acts 1979, P.L.219, SEC.1. Amended by Acts 1980, P.L.155, SEC.1; P.L.233-1987, SEC.3; P.L.8-1993, SEC.265; P.L.76-1995, SEC.3.

IC 20-12-63-4

Indiana educational facilities authority

Sec. 4. (a) There is created the Indiana educational facilities authority, a body corporate and politic (not a state agency, but a separate instrumentality of the state exercising essentially public functions). The authority consists of seven (7) members appointed by the governor as follows:

(1) At least one (1) member must be a trustee, director, officer or employee of an institution for higher education.

(2) At least one (1) member must have a favorable reputation for skill, knowledge, and experience in the field of state and municipal finance, either as a partner, officer, or employee of an investment banking firm which originates and purchases state and municipal securities, or as an officer or employee of an insurance company or bank whose duties relate to the purchase of state and municipal securities as an investment and to the management and control of a state and municipal securities portfolio.

(3) At least one (1) member must have experience in the educational building construction field and a favorable reputation for skill, knowledge and experience in that field.

(b) Not more than four (4) members of the authority may be members of the same political party. Each member of the authority is entitled to serve a four (4) year term commencing on July 1. A member of the authority may be reappointed by the governor. The governor shall fill any vacancy for the remainder of the unexpired term. The governor may remove any member of the authority for misfeasance, malfeasance, willful neglect of duty, or other cause after notice and a public hearing unless the member expressly waives the notice and hearing in writing.

As added by Acts 1979, P.L.219, SEC.1. Amended by P.L.17-1987, SEC.22.

IC 20-12-63-5

Election of chairman

Sec. 5. Election of Chairman. The authority shall annually elect one (1) of its members as chairman and one (1) as vice chairman. It may appoint an executive director and assistant executive director, who shall not be members of the authority, and who shall serve at the pleasure of the authority. They shall receive such compensation as shall be fixed by the authority.

As added by Acts 1979, P.L.219, SEC.1.

IC 20-12-63-6

Documents of authority

Sec. 6. Documents of the Authority. The executive director or assistant executive director or other person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be custodian of: books, documents and papers filed with the authority; the minute book or journal of the authority; and its official seal. Said executive director or assistant executive director or other person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies. All persons dealing with the authority may rely upon such certificates.

As added by Acts 1979, P.L.219, SEC.1.

IC 20-12-63-7

Quorum; meetings; actions by authority

Sec. 7. (a) Four (4) members of the authority shall constitute a quorum.

(b) This subsection applies to a meeting of the board at which at least four (4) members of the board are physically present at the place where the meeting is conducted. A member of the board may participate in a meeting of the board by using a means of communication that permits:

- (1) all other members participating in the meeting; and
- (2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting. A member who participates in a meeting described in this subsection is considered to be present at the meeting. If a meeting is held under this subsection, the memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who was physically present at the place where the meeting was conducted, who participated in the meeting by using a means of communication described in this subsection, and who was absent from the meeting.

(c) The affirmative vote of a majority of all the members of the authority who are present shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under this chapter may be authorized by:

- (1) resolution at any regular or special meeting; or
- (2) unanimous consent of all the members who have not abstained.

Each such resolution shall take effect immediately and need not be published or posted.

As added by Acts 1979, P.L.219, SEC.1. Amended by Acts 1981, P.L.204, SEC.1; P.L.76-1995, SEC.4.

IC 20-12-63-8

Bond of officers

Sec. 8. Bond of Officers. Before the issuance of any bonds under this chapter, the chairman, vice chairman, executive director and assistant director and any other member of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall execute a surety bond in the penal sum of fifty thousand dollars (\$50,000). Each such surety bond shall be conditioned upon the faithful performance of the duties of the office of the principal and shall be executed by a surety company authorized to transact business in the state as surety. The cost of each such bond shall be paid by the authority.

As added by Acts 1979, P.L.219, SEC.1. Amended by Acts 1981, P.L.204, SEC.2.

IC 20-12-63-9

Compensation

Sec. 9. Compensation. The members of the authority shall receive no compensation for the performance of their duties as members but each such member shall be paid his necessary expenses while engaged in the performance of such duties.

As added by Acts 1979, P.L.219, SEC.1.

IC 20-12-63-10

Conflict of interest

Sec. 10. Notwithstanding the provisions of any other laws to the contrary, it is not a conflict of interest or violation of any other law for a person to serve as a member of the authority. However, a member shall disclose a conflict of interest relating to actions of the authority as required and in the manner provided by IC 35-44-1-3.

As added by Acts 1979, P.L.219, SEC.1. Amended by P.L.8-1993, SEC.266; P.L.76-1995, SEC.5.

IC 20-12-63-11

Functions and powers of authority

Sec. 11. The authority shall have the functions and powers set forth in this section.

- (1) The authority may adopt rules and bylaws for the regulation of the authority's business.
- (2) The authority may adopt an official seal and alter the official seal.
- (3) The authority may maintain an office at a place or places designated by the authority.
- (4) The authority may sue and be sued, plead and be impleaded in the authority's own name.
- (5) The authority may determine the location and character of any project to be financed under this chapter. The authority may construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease as lessee or lessor, regulate any project, or enter into contracts for any purpose stated in this

subdivision. The authority may designate a private institution of higher education as the authority's agent to carry out the authority of this subsection.

(6) The authority may issue bonds or fund and refund bonds as provided in this chapter.

(7) The authority may require that the rates, rents, fees, or charges established by a private institution of higher education are sufficient to discharge the institution's obligations to the authority but shall have no other jurisdiction over such rates, rents, fees, or charges.

(8) The authority may establish rules for the use of a project or any portion thereof and designate a private institution of higher education as the authority's agent to establish rules for the use of a project undertaken for that institution.

(9) The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the authority's judgment, and fix their compensation.

(10) The authority may receive and accept from any source loans, contributions, or grants for or in aid of the construction or funding of a project or any portion thereof in either money, property, labor, or other things of value and, when required, use such funds, property, or labor only for the purposes for which the money, property, or labor was loaned, contributed, or granted.

(11) The authority may make loans to any private institution of higher education for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses in accordance with an agreement between the authority and the private institution of higher education. No such loan may exceed the total cost of the project as determined by such institution and approved by the authority.

(12) The authority may make loans to a private institution of higher education to refund outstanding obligations or advances issued, made, or given by such institution for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses. In addition, the authority may issue bonds and make loans to a private institution of higher education to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior to the date of the bond issue whenever the authority finds that such financing is in the public interest and either:

(A) alleviates a financial hardship upon the private institution of higher education;

(B) results in a lesser cost of education; or

(C) enables the private institution of higher education to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

(13) The authority may charge to and apportion among private institutions of higher education the authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

(14) The authority may, for financing purposes, combine a project or projects and some or all future projects of any private institution or institutions of higher education provided that:

(A) the authority obtains the consent of all of the private institutions of higher education which are involved, or when financing loans for the funding of liability or other loss insurance reserves or for the providing of those reserves or other capital to be contributed to a risk retention group, the authority obtains the consent of all of the eligible members that are involved; and

(B) the money set aside in any fund or funds pledged for any series of bonds or issue of bonds are held for the sole benefit of such series or issue separate and apart from the money pledged for any other series or issue of bonds of the authority.

To facilitate the combining of projects, bonds may be issued in series under one (1) or more resolutions or trust agreements and be fully open end, thus providing for unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any provision of this chapter to the contrary, the authority may permit a private institution of higher education to substitute one (1) or more educational facilities of similar value (as determined by an independent appraiser satisfactory to the authority) as security for any educational facility financed under this chapter on such terms and conditions as the authority may prescribe.

(15) The authority may mortgage all or any portion of any project and any other educational facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness of a private institution of higher education as permitted by this chapter.

(16) The authority may join in a risk retention group with corporations (as defined in IC 20-12-6-1) or any private institution of higher education.

(17) The authority may do all things necessary to carry out the purposes of this chapter.

As added by Acts 1979, P.L.219, SEC.1. Amended by Acts 1980, P.L.155, SEC.2; Acts 1981, P.L.204, SEC.3; P.L.233-1987, SEC.4;

P.L.76-1995, SEC.6.

IC 20-12-63-11.5

Code of ethics

Sec. 11.5. (a) The authority shall:

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for its employees; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by rule or policy under this section must be consistent with state law and approved by the governor.

As added by P.L.5-1996, SEC.16.

IC 20-12-63-12

Expenses of authority

Sec. 12. Expenses of Authority. All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter and no liability shall be incurred by the authority beyond the extent to which moneys shall have been provided under this chapter.

As added by Acts 1979, P.L.219, SEC.1.

IC 20-12-63-13

Acquisition of real and personal property

Sec. 13. The authority may acquire:

(1) directly;

(2) by and through a private institution of higher education as its agent;

(3) by purchase solely from funds provided under this chapter; or

(4) by gift or devise;

such lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights which are located in the state, as the authority finds necessary or convenient for the construction or operation of a project, upon such terms and at such prices as can be agreed upon between the authority and the owner thereof. The authority may take title thereto in the authority's own name or in the name of a private institution of higher education as the authority's agent.

As added by Acts 1979, P.L.219, SEC.1. Amended by P.L.76-1995, SEC.7.

IC 20-12-63-14

Conveyance of title after payment of bonds

Sec. 14. Conveyance of Title After Payment of Bonds. The authority shall promptly do such things and execute such deeds and conveyances as are necessary and required to convey the title to such

project or projects to the appropriate private institution of higher education whenever:

- (1) the principal of and interest on bonds of the authority issued to finance the cost of a project or projects for a private institution of higher education, including any refunding bonds issued to refund and refinance such bonds, have been fully paid and retired; or
- (2) adequate provision has been made to fully pay and retire the same, all other conditions of the bond resolution have been satisfied, and the lien created by the bond resolution has been released in accord with the provisions of the bond resolution.

As added by Acts 1979, P.L.219, SEC.1.

IC 20-12-63-15

Bonds

Sec. 15. (a) The authority may from time to time issue bonds for any corporate purpose. All such bonds or other obligations of the authority issued pursuant to this chapter shall be and are hereby declared to be negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other law or laws.

(b) The bonds of every issue shall be payable solely out of revenues of the authority including accumulated reserves or sinking funds. Any income received from the investment of reserves or sinking funds shall be applied in reduction of the rentals or other amounts paid by the private institutions or institutions of higher education for whose project or projects the same shall have been created. Such funds when invested shall be allocated to a specific project or projects of the institution for which the fund has been created, and the income from such investment shall be used to reduce the bonded indebtedness attributable to such project or projects.

(c) The bonds may be issued as serial bonds, term bonds, or both. The bonds shall be authorized by a bond resolution of the authority and shall bear such date or dates, mature at such time or times not exceeding forty (40) years from their respective dates of issue, bear interest at such rate or rates, without regard to any limit contained in any other statute or law of the state of Indiana, be payable at such time or times, be in such denominations, be in such form, either coupon or fully registered, carry such registration and conversion privileges, be payable in lawful money of the United States of America at such places, and be subject to such terms of redemption as are in current or customary usage in municipal bond markets and as such bond resolution may provide. The bond resolution may set the maximum interest rate or rates which the bonds shall bear and delegate to an officer or agent of the authority power to set an interest rate or rates which such bonds shall bear at the time of sale of the bonds. However, such rate or rates shall not exceed the maximum rate established by the authority in the bond resolution. The bonds shall be executed by the manual or facsimile signatures of such officers or agents of the authority as shall be designated by the

authority. In the case of bonds having a maturity of one (1) year or less, the bond resolution which authorizes such bonds may concurrently provide for the issuance, delivery, and sale of refunding bonds subject to the terms and conditions prescribed in such bond resolution and this chapter. The bonds shall be sold in such manner as the authority shall determine. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(d) Any bond resolution may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

- (1) pledging or assigning the revenues of the project or projects with respect to which such bonds are to be issued;
- (2) the rentals, fees and other amounts to be charged, and the sums to be raised in each year thereby, and the use, investment, and disposition of such sums;
- (3) the setting aside of reserves or sinking funds, and the regulation, investment, and disposition thereof;
- (4) limitations on the use of the project;
- (5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied;
- (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;
- (7) the refunding of outstanding bonds;
- (8) the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
- (9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default;
- (10) mortgaging the project or projects with respect to which such bonds are to be issued and other educational facilities conveyed to the authority for such purpose for the benefit of the holders of such bonds;
- (11) the establishment of liability or other loss insurance reserves or the contribution of those reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses; and
- (12) any other matters relating to the bonds which the authority considers desirable.

(e) Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds. The authority may hold, pledge,

cancel, or resell such bonds subject to and in accordance with agreements with bond holders.

As added by Acts 1979, P.L.219, SEC.1. Amended by P.L.233-1987, SEC.5; P.L.76-1995, SEC.8.

IC 20-12-63-16

Trust agreement to secure bonds

Sec. 16. Trust Agreement to Secure Bonds. The authority may secure any bonds issued under the provisions of this chapter by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank in the state of Indiana having the powers of a trust company. The bond resolution providing for the issuance of bonds so secured shall pledge the revenues to be received by the authority from the project or projects, may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any bond resolution of the authority and may restrict the individual right of action by bondholders. In addition to the foregoing, any bond resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the bond resolution may be treated as a part of the cost of the operation of a project.

As added by Acts 1979, P.L.219, SEC.1.

IC 20-12-63-17

Bonds as obligation of authority only

Sec. 17. Bonds as Obligation of Authority Only. Bonds issued under authority of this chapter do not, and shall state upon the face of each bond that they do not, represent or constitute a debt of the authority or of the state of Indiana within the meaning of the provisions of the Constitution or statutes of the state of Indiana or a pledge of the faith and credit of the authority or the state of Indiana or grant to the owners or holders thereof any right to have the authority or the general assembly levy any taxes or appropriate any funds for the payment of the principal thereof or interest thereon. Such bonds are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the bond resolution.

Nothing in this chapter shall be construed to authorize the authority or any department, board, commission or other agency to create an obligation of the state of Indiana within the meaning of the constitution or statutes of Indiana.

As added by Acts 1979, P.L.219, SEC.1.

IC 20-12-63-18

Project revenues and liens

Sec. 18. In connection with any lease entered into between the

authority and any private institution of higher education, the authority shall fix, revise, charge and collect rents for the use of each project and contract with any person, partnership, association, limited liability company, or corporation, or other body, public or private, in respect thereof. Each lease entered into by the authority with a private institution of higher education shall provide that the rents or other moneys payable by the private institution of higher education shall be sufficient at all times:

- (1) to pay its share of the administrative costs and expenses of the authority;
- (2) to pay the principal of, the premium, if any, and the interest on outstanding bonds of the authority issued in respect of such project as the same shall become due and payable; and
- (3) to create and maintain reserves which may but need not be required or provided for in the bond resolution relating to such bonds of the authority.

The authority shall pledge the revenues derived and to be derived from a project for the purposes specified in subdivisions (1), (2), and (3), and additional bonds may be issued which may rank on a parity with other bonds relating to the project to the extent and on the terms and conditions provided in the bond resolution. Such pledge shall be valid and binding from the time when the pledge is made; the revenues so pledged by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the bond resolution nor any financing statement, continuation statement or other instrument by which a pledge is created or by which the authority's interest in revenues is assigned need be filed or recorded in any public records in order to perfect the lien thereof as against third parties except that a copy thereof shall be filed in the records of the authority and with the state treasurer.

As added by Acts 1979, P.L.219, SEC.1. Amended by Acts 1981, P.L.204, SEC.4; P.L.8-1993, SEC.267.

IC 20-12-63-19

Trust funds from sale of bonds

Sec. 19. Trust Funds from Sale of Bonds. All moneys received under this chapter, whether as proceeds from the sale of bonds or as revenues, shall be trust funds to be held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and the bond resolution authorizing the bonds of any issue may provide.

As added by Acts 1979, P.L.219, SEC.1.

IC 20-12-63-20

Rights of bond holders

Sec. 20. Rights of Bond Holders. Any holder of bonds issued under this chapter or a trustee under a trust agreement entered into under this chapter, except to the extent that their rights are restricted by any bond resolution, may, by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by the bond resolution. Such rights include the right:

- (1) to compel the performance of all duties of the authority required by this chapter or the bond resolution;
- (2) to enjoin unlawful activities; and
- (3) in the event of default with respect to the payment of any principal of, premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the bond resolution, to apply to the circuit court to appoint a receiver:
 - (A) to administer and operate the project or projects, the revenues of which are pledged to the payment of principal of, premium, if any, and interest on such bonds;
 - (B) with full power to pay, and to provide for payment of, principal of, premium, if any, and interest on such bonds; and
 - (C) with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers, excluding any power to pledge additional revenues of the authority to the payment of such principal, premium and interest.

As added by Acts 1979, P.L.219, SEC.1.

IC 20-12-63-21

Refunding bonds

Sec. 21. (a) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earlier or any subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof. However, no such bonds shall be issued unless the authority shall have provided for the payment of rentals adequate to satisfy the requirements of section 12 of this chapter.

(b) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date

as may be determined by the authority.

(c) Any such escrowed proceeds, pending such use, may be invested and reinvested in:

- (1) direct obligations of the United States of America; or
- (2) obligations having the timely payment of principal and interest unconditionally guaranteed by the United States of America;

maturing at such time or times as shall be appropriate to assure the prompt payment of the principal and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof shall be returned to the private institution of higher education for use by the private institution of higher education in any lawful manner.

(d) All such bonds shall be subject to this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

As added by Acts 1979, P.L.219, SEC.1. Amended by P.L.76-1995, SEC.9.

IC 20-12-63-22

Investment of funds of authority

Sec. 22. Except as otherwise provided in section 21(c) of this chapter or in any trust indenture providing for the issuance of bonds, the authority may invest any funds in:

- (1) direct obligations of the United States of America;
- (2) obligations on which the timely payment of principal and interest is fully guaranteed by the United States of America;
- (3) obligations of the federal banks for cooperatives, farm credit banks, federal home loan banks, Federal National Mortgage Association and Government National Mortgage Association; and
- (4) certificates of deposit or time deposits constituting direct obligations of any bank as defined in IC 28-1-1 through IC 28-1-23, but only in those certificates of deposit or time deposits in banks which are insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation, if then in existence.

Any such securities may be purchased at their offering or market price at the time of the purchase. All such securities so purchased shall mature or be redeemable on a date or dates prior to the time when, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any funds will be required for expenditure or be redeemable is final and conclusive.

As added by Acts 1979, P.L.219, SEC.1. Amended by Acts 1981,

P.L.204, SEC.5; P.L.8-1991, SEC.5.

IC 20-12-63-23

Bonds as legal investments

Sec. 23. Bonds as Legal Investments. All banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to this chapter. *As added by Acts 1979, P.L.219, SEC.1.*

IC 20-12-63-24

Account of activities

Sec. 24. Account of Activities. The authority shall keep an accurate account of all its activities and of all of its receipts and expenditures and shall annually in the month of January make a report thereof to its members and to the governor. The members may investigate the affairs of the authority, may severally examine the properties and records of the authority, and may prescribe methods of accounting and the rendering of periodical reports in relation to projects undertaken by the authority. *As added by Acts 1979, P.L.219, SEC.1.*

IC 20-12-63-25

Competitive bidding not required; exception; request of prospective lessee

Sec. 25. Except as provided in IC 20-12-5-5, a project is not subject to any statutory requirement of competitive bidding or other restriction imposed on the procedure for award of contracts or the lease, sale, or other disposition of property with regard to any action taken under authority of this chapter. If, however, the prospective lessee so requests in writing, the authority shall call for the construction bids in the manner determined by the authority with the approval of the lessee.

As added by Acts 1979, P.L.219, SEC.1. Amended by P.L.336-1989(ss), SEC.37.

IC 20-12-63-26

Financing of private institutions of higher education

Sec. 26. (a) Notwithstanding any other provision of this chapter to the contrary, the authority may:

- (1) finance the cost of an educational facility or refund outstanding indebtedness of a private institution of higher education, as authorized under section 11(12) of this chapter; or
- (2) finance the establishment of liability or other loss insurance reserves or the contribution of such reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses;

by issuing its bonds for the purpose of loaning the proceeds to a private institution of higher education for the cost of a project or to refund or refinance outstanding indebtedness or reimburse advances made in connection with a project in accordance with an agreement between the authority and the institution and in exchange for the institution's promissory note or notes. Any such promissory notes shall have the same principal amounts, maturities, and interest rates as the bonds so being issued, may be secured by a first mortgage lien on the educational facility so being financed or by a first mortgage lien or security interest in other real or personal property or funds acceptable to the authority subject to such exceptions as the authority may approve and created by a mortgage instrument or security agreement satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be payable solely out of the payments to be made on such promissory notes and under such agreement and shall not exceed in principal amount the cost of such educational facility, as determined by the private institution of higher education, or the necessary amount of these liability or other loss insurance reserves, and approved by the authority. In other respects any such bonds shall be subject to the provisions of section 15(c) of this chapter and the trust agreement or indenture creating such bonds may contain such of the provisions set forth in section 15(d) of this chapter as the authority may deem appropriate.

(b) In the event that an educational facility is financed and mortgaged pursuant to this section, the title to such facility shall remain in the private institution of higher education owning the same, subject to the lien of the mortgage securing the promissory notes then being purchased, and there shall be no lease of such facility between the authority and such institution.

(c) The provisions of section 14 of this chapter shall not apply to any educational facility or any liability or other loss insurance reserves financed pursuant to this section, but the authority shall return the promissory notes purchased through the issuance of bonds under this chapter to the private institution of higher education issuing such promissory notes when:

- (1) such bonds have been fully paid and retired or adequate provision has been made to pay and retire the same fully;
- (2) all other conditions of the trust agreement or indenture creating such bonds have been satisfied; and
- (3) the lien thereof has been released in accordance with the provisions thereof.

As added by Acts 1979, P.L.219, SEC.1. Amended by Acts 1980, P.L.155, SEC.3; Acts 1981, P.L.204, SEC.6; P.L.233-1987, SEC.6; P.L.76-1995, SEC.10.

IC 20-12-63-27

Exemption from taxation

Sec. 27. The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and for the

improvement of their health and living conditions. Because the operation and maintenance of a project by the authority or its agent will constitute the performance of an essential public function, neither the authority nor its agent shall be required to pay any taxes or assessments, including mortgage recording taxes, upon or in respect of:

- (1) a project or any property acquired or used by the authority or its agent under the provisions of this chapter or upon the income from the project or property;
- (2) the bonds issued under the provisions of this chapter or the interest on those bonds; and
- (3) the proceeds received from bonds issued under this chapter:
 - (A) by a holder from the sale of such bonds, to the extent of the holder's cost of acquisition;
 - (B) upon redemption prior to maturity; or
 - (C) at maturity.

All bonds and the interest on bonds issued under this chapter are exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by Acts 1979, P.L.219, SEC.1. Amended by Acts 1980, P.L.155, SEC.4; P.L.21-1990, SEC.49; P.L.254-1997(ss), SEC.24.

IC 20-12-63-27.5

Authority assets; disposition upon termination or dissolution

Sec. 27.5. Authority Assets; Disposition Upon Termination or Dissolution. No part of the revenues or assets of the authority may inure to the benefit of or be distributable to its members or officers or other private persons. Any net earnings of the authority beyond that necessary for retirement of authority indebtedness or to implement the public purposes of this chapter shall inure to the benefit of the state. Upon termination or dissolution, all rights and properties of the authority shall pass to and be vested in the state, subject to the rights of lienholders and other creditors.

As added by Acts 1980, P.L.155, SEC.5.

IC 20-12-63-28

Supplemental effect

Sec. 28. Supplemental Effect. The provisions of this chapter provide a complete, additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, provided that the adoption of rules and the issuance of bonds under this chapter need not comply with the requirements of any other law applicable thereto. Except as otherwise expressly provided in this chapter, none of the powers granted to the authority under this chapter shall be subject to the supervision or regulation or require the approval or consent of any municipality or political subdivision or any department, division, commission, board, body, bureau, official or agency thereof or of the state.

As added by Acts 1979, P.L.219, SEC.1. Amended by Acts 1981, P.L.204, SEC.7.

IC 20-12-63-29

Liberal construction

Sec. 29. Liberal Construction. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes.

As added by Acts 1979, P.L.219, SEC.1.